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| 09/537,546 | 03/30/2000 | Knut Beneke | 31659-157399 | 7765 |
| 26694 | 7590 | 09/21/2005 | EXAMINER | |
| VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998 | | | LE, BRIAN Q | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2623 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/537,546

Applicant(s)

BENEKE, KNUT

Examiner

Brian Q. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on July 07, 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3, 7-13 and 17-20 is/are rejected.
7) ☒ Claim(s) 4-6 and 14-16 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 07 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment and Arguments

1. Applicant's amendment filed July 07, 2005, has been entered and made of record.
2. The objection to FIG. 2 is withdrawn.
3. The rejection of claims 1-10 under 35 U.S.C. 112, first paragraph is withdrawn.
4. Applicant's arguments with regard to claims 1-3, 7-10 have been fully considered, but are not considered persuasive because of the following reasons:

Regarding claim 1, the Applicant argues (last paragraph of page 13 of Remarks) that Krug Reference does not teach performing a coordinate comparison to identify mutually facing sides of two adjoining individual marking, wherein the coordinate comparison comprises determining a distance between a coordinate of the first adjoining marking and a coordinate of the second adjoining marking, and determining whether the distance exceeds a previously set, variable limit. Regardless whether Krug teaches this limitation or not, the Examiner did not use Krug to teach this limitation. Also the Applicant argues (page 14) that Simanovsky Reference does not disclose the concept of coordinate comparison. Due to the broadly claimed language, one skilled in the art can reasonably interpret the comparison of statistical distance of each plane (whether plane of coordinates x-y, x-z, and y-z). If there is a comparison of a property (statistical distance) of the coordinates (x-y, x-z, or y-z), then it is inherent that the coordinates are compared. In addition, the claim language cited "coordinate comparison comprises determining a distance ... variable limit", thus Simanovsky also teaches the comparison of coordinate by computer statistical distance (column 21, lines 55-67). The Applicant is advised to further elaborate of the coordinate comparison process to overcome this rejection. To further assist the Applicant with the guidance with claim language interpretations so that the Applicant can add

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further/more details limitations from the specification to the claims to overcome the prior arts, the Examiner is presenting MPEP, section 2111, Claim Interpretation; Broadest Reasonable Interpretation as follow: “The court explained that “reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim,’ to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim.” The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the “PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant’s specification.””).

Thus, the rejections of all of the claims are maintained.

Claim Rejections - 35 USC § 112

5. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations relating to the new concept “screen marking” are not supported in the

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original specification. Perhaps, the display of markings on the screen is supported by the closure. However, the original disclosure does not show the support to all the manipulation, processing and analyzing of screen markings. The Applicant is required to provide the support for this new subject matter (exact page number and line number).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-3 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Hiraoglu U.S. Patent No. 6,272,230 and Krug U.S. Patent No. 5,838,758, and further in view of Simanovsky U.S. Patent No. 6,317,509.

Referring to claim 1, Hiraoglu teaches a method of processing an X-ray image of articles (tomography) (Abstract) contained in a transilluminated object and made visible (baggage scanning system inherently transilluminate objects and make them visible) (column 6, lines 25-32) for an observer on a monitor screen (computer) (FIG. 4, "EDA Computer"), comprising the following steps:

(a) placing individual markings about the image or certain, previously determined articles (pixels are being marked from the computation of region of interest and boundary box) (FIG. 6, element 314; FIG. 8A-8B; FIG. 11; column 19, lines 15-20; column 20, lines 40-41; column 22, lines 60-64);

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(b) automatically (a computer software processing will process automatically) and stepwise combining the individual markings into a final added marking if at least two individual markings mutually fit (FIG. 9, steps 342-346; column 29, lines 1-35; column 31, lines 52-57); said combining step comprises the steps of

(1) Performing a coordinate (i, j, k coordinates are used in the comparing of voxel and markings) (FIG. 10; column 15, lines 55-67 and column 16, lines 1-6) comparison to identify mutually facing sides of two adjoining individual markings (to check if the objects satisfy the criterion before merging) (column 31, lines 52-67 and column 32, lines 1-25); and Hiraoglu does not clearly teaches the concept of determining a ratio of an overlapping area of said two adjoining individual markings to the total area of at least one of said two adjoining individual markings. Hiraoglu also does not explicitly teach the coordinate comparison comprises determining a distance between a coordinate of the first adjoining marking and a coordinate of the second adjoining marking, and determining whether the distance exceeds a previously set, variable limit. Krug teaches a method of processing X-ray image of articles (Abstract) that determining a ratio of overlapping area of adjoining individual markings (FIG. 19, elements 2060 and 2070 and column 4, lines 15-31). In addition, Simanovsky teaches a method detects sheet explosives in computed tomography comprises coordinate comparison which determining a distance between a coordinate of the first adjoining marking and a coordinate of the second adjoining marking (distance calculation for each plane), and determining whether the distance exceeds a previously set, variable limit (different thresholds) (column 21, lines 53-67).

Modifying Hiraoglu's method of method of processing an X-ray image of articles according to Krug will provide the ability to assign the selected areas with the appropriate probability for the presence of different object in the vicinity and/or neighborhood (column 6, lines 17-25). In addition, modifying Hiraoglu's method of method of processing an X-ray image of articles according to Simanovsky will provide the ability to calculate the overlapping regions in further determining explosive sheet. This would improve processing e.g. allow enhanced detection of objects more accurately and therefore, it would have been obvious to one of the ordinary skill in the art to modify Hiraoglu according to Krug and Simanovsky.

Referring to claim 2, Krug teaches the method wherein said comparing step comprises the step of comparing lengths and positions of said facing sides (column 6, lines 14-18).

For claim 3, Krug further teaches the method wherein said step of determining a ratio comprises the step of determining a ratio of said overlapping area of said two adjoining individual markings with the total area of one of said two adjoining individual markings (FIG. 4, column 5, lines 20-32; column 3, lines 1-22; and column 4, lines 15-32).

Referring to claim 7, Hiraoglu teaches the method wherein said comparing and determining steps include the steps of comparing coordinates in which said individual and individual added markings are positioned (column 20, lines 10-23 and column 25, lines 60-67).

Regarding claim 8, Hiraoglu teaches the method wherein the individual markings are respective rectangles surrounding the image of a respective article (FIG. 8A-8B).

For claim 9, Hiraoglu further teaches a monitor screen (column 15, lines 1-5) display individual markings ((FIG. 8A, FIG. 8B and column 21).

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For claim 10, Krug teaches the method wherein the transilluminated objects are transilluminated baggage objects (different energies show on the X-ray to different material such as baggage objects due to the material difference in photoelectric effect scattering characteristics) (abstract).

Regarding claims 11-13, please refer back to claims 1-3 for the teachings and explanations.

For claims 17-20, please refer back to claims 7-10 for the teachings and explanations.

Allowable Subject Matter

8. Claims 4-6, and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

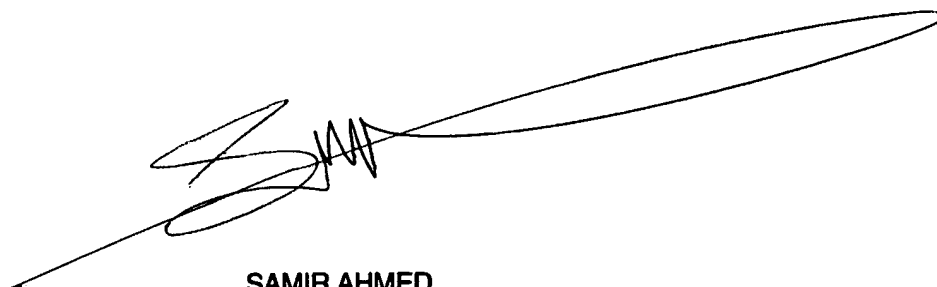
Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Q Le whose telephone number is 571-272-7424. The examiner can normally be reached on 8:30 A.M - 5:30 P.M.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on 571-272-7414. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and 571-273-8300 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

BL
September 16, 2005

A handwritten signature in black ink, appearing to read 'SAMIR AHMED', is written over a horizontal line. The signature is stylized with a large loop and a series of vertical strokes.

**SAMIR AHMED
PRIMARY EXAMINER**